

**DISTRICT OF COLUMBIA
DOH OFFICE OF ADJUDICATION AND HEARINGS**

DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
Petitioner,

v.

PARKE WILDE
Respondent

Case No.: I-02-72005

FINAL ORDER

I. Introduction

This case arises under the Civil Infractions Act of 1985 (D.C. Official Code §§ 2-1801.01 *et seq.*) and Title 21 Chapter 7 of the District of Columbia Municipal Regulations (“DCMR”). By Notice of Infraction (72005) served March 27, 2002, the Government charged Respondent Parke Wilde with a violation of 21 DCMR 708.10 for allegedly using plastic bags to store and dispose of solid waste other than yard waste.¹ The Notice of Infraction alleged that the violation occurred on March 25, 2002 at 3483 Holmead Place. N.W., and sought a fine of \$50.

On April 17, 2002, Respondent filed a timely plea of Admit with Explanation pursuant to D.C. Official Code § 2-1802.02(a)(2), along with a request for a reduction or suspension of any fines. Respondent explained that sometime during the third week of March, 2002, his garbage

¹ 21 DCMR 708.10 provides: “Plastic bags intended for use as container liners are prohibited for use alone for storing solid waste refuse, except that plastic bags of at least nine (9) mil. thickness with a capacity of no more than thirty-two (32) gallons and securely tied may be used as containers for yard rubbish, provided that bags used for this purpose are marked as yard rubbish and set out for collection on the day(s) designated for yard rubbish collection.”

can and recycling bin were stolen. Respondent stated that he went to place his bags of trash outside for pick-up “without a proper container” on March 25, and found that there were several bags of trash already dumped there by unidentified persons. Respondent has stated that he recently purchased a larger container to replace the one that had been stolen.

Finally, Respondent explained that on March 11, 2002 had been issued a Notice of Infraction by the District of Columbia Department of Public Works for placing his trash containers outside on the wrong pick-up day, and has denied that charge.

By order dated April 26, 2002, I permitted the Government to respond to Respondent’s plea and request. The Government elected not to respond.

II. Findings of Fact

1. By his plea of Admit with Explanation, Respondent has admitted violating 21 DCMR 708.10 on March 25, 2002 at 3483 Holmead Place, N.W.
2. On March 25, 2002, Respondent used “[p]lastic bags intended for use as container liners” to store and dispose of solid waste other than yard waste at 3483 Holmead Place, N.W. 21 DCMR 708.10.
3. Sometime during the third week of March, 2002, Respondent’s garbage can and recycling bin were stolen. On the date of the violation, Respondent went to place his bags of trash outside for pick-up “without a proper container” on March 25, and found that there were several bags of trash already dumped there by unidentified persons.

4. Respondent promptly purchased a larger trash container to replace the one that had been stolen, and has represented that he will “also try to do more to properly bag trash that has been dumped by others”
5. Respondent has accepted responsibility for his unlawful conduct.
6. On March 11, 2002, Respondent was issued a Notice of Infraction (No. 3-29083-3) by the District of Columbia Department of Public Works (“DPW”) for placing his trash containers outside on the wrong pick-up day. Respondent has denied the charge.²

III. Conclusions of Law

1. Respondent violated 21 DCMR 708.10 on March 25, 2002. A fine of \$50 is authorized for a first violation of this regulation. 16 DCMR §§ 3201.1(d)(1) and 3216.4(e). *See* 48 D.C. Reg. 6656 (July 27, 2001).
2. Respondent has requested a reduction or suspension of the authorized fine. Under the facts of this case, a reduction, although not a suspension, of the fine is appropriate. In light of Respondent’s acceptance of responsibility and demonstrated efforts to comply with the requirements of § 708.10, I will reduce the fine to \$30. *See* D.C. Official Code §§ 2-1801.02(a)(2) and 2-1801.03(a)(6);

² In his letter of explanation, Respondent requested that this administrative court waive the fine sought by the DPW. This administrative court currently functions as an independent hearing tribunal of the Department of Health and, by Memorandum of Understanding, the Department of Mental Health. *See generally* Reorganization Plan No. 4 of 1996, Mayor’s Order Nos. 97-42, 99-68, 01-26, and 01-39, and Department of Health Organizational Order No. 99-24. As such, this administrative court is without jurisdiction to adjudicate cases brought by DPW.

U.S.S.G. 3E1.1; 18 U.S.C. § 3553.

IV. Order

Based upon the foregoing findings of fact and conclusions of law, and the entire record of this case, it is, hereby, this ____ day of _____, 2002:

ORDERED, that Respondent shall pay a fine in the amount of **THIRTY DOLLARS (\$30)** in accordance with the attached instructions within twenty (20) calendar days of the date of mailing of this Order (fifteen (15) calendar days plus five (5) days for service by mail pursuant to D.C. Official Code §§ 2-1802.04 and 2-1802.05); and it is further

ORDERED, that, if Respondent fails to pay the above amount in full within twenty (20) calendar days of the date of mailing of this Order, by law, interest must accrue on the unpaid amount at the rate of 1 ½% per month or portion thereof, beginning with the date of this Order, pursuant to D.C. Official Code § 2-1802.03(i)(1); and it is further

ORDERED, that failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondent's licenses or permits pursuant to D.C. Official Code § 2-1802.03(f), the placement of a lien on real or personal property owned by Respondent pursuant to D.C. Official Code § 2-1802.03(i) and the sealing of Respondent's business premises or work sites pursuant to D.C. Official Code § 2-1801.03(b)(7).

/s/ **05/17/02**

Mark D. Poindexter
Administrative Judge